

VOTE IT STRAIGHT

Is Advice of Chairman Robertson to Electors.

Today's battle of the ballots is expected by the Republican party to land the majority of their ticket in the legislature.

Chairman A. G. M. Robertson of the Republican Central Committee stated yesterday that a complete victory depended on the Republican voters voting the straight ticket. His opinion as to a forecast of the result of today's balloting hinged upon the "if."

"If the Republicans will vote straight, we will make a clean sweep; if they don't, we won't, that's all," said the chairman.

The chairman stated that in East Hawaii the Republicans expected Delegate Kuhio would get sixty per cent of the votes, Notley and Iaukea evenly dividing the balance. The whole legislative ticket in East Hawaii would be elected. In West Hawaii he believes Kuhio and Notley will run about even. Half the legislative ticket may be elected.

With the Democratic and Home Rule fusion on Maui breaking down under the pressure of the two parties, Kuhio will take lead and probably win by a small majority. Robertson expects the returns will show that a majority of the legislative ticket is elected.

Kauai is safely Republican. The chairman considers Oahu to be the vital island. He eliminates the Democrats from the contest believing it is a fight between the Republicans and Home Rulers. Should the Democrats be capable of hanging on to a fair sized number of votes in the Fifth, the Republicans will defeat the Home Rulers.

The Democrats, in his opinion, will tail the procession.

KUHIO DEFENDS ALL HIS ACTIONS

Prince Kuhio defended himself against the attacks of his opponents at noon yesterday, while speaking from the makeshift rostrum on the Bethel and King street corner. He also, sailed into Nakookoo, the Home Ruler who is now under arrest charged by the Democratic party with criminal libel.

In his address Prince Kuhio labeled Nakookoo's accusation against Harvey as utterly false. As Nakookoo had charged the Republicans as well as Harvey with endeavoring to accomplish the disfranchisement of the natives, Prince Kuhio took up the cudgels against Nakookoo in behalf of Harvey.

"How can you believe such a statement, especially coming from a man like Nakookoo. There cannot be a word of truth in it."

"As to Iaukea, I like him personally. He speaks nicely, and all that, but he permits his followers to make all manner of accusations against the Republican party and me. These accusations are false."

Some one in the crowd asked Kuhio if he had not stated that Testa was instrumental in defeating the County act by putting provisions in it which caused the court to annul the bill.

The Prince replied that he had not made the statement as of himself, but that it had appeared in a newspaper, and he had quoted it.

EXECUTIVE ANNEX FOR ELECTION NEWS

An Executive Annex for the reception of election news will be established this evening on the second floor of the Waity building, King street, opposite the Advertiser office.

Governor Carter and Secretary Atkinson will make their headquarters here for receiving returns from Oahu, the other islands and the mainland. Guests of the executive will have provision made for their comfort in the rooms.

Communications will be established between the Annex and the Advertiser for the exchange of any intelligence. As fast as returns from any quarter are received they will be displayed by lantern on a screen hung upon the front of the Advertiser office.

REGISTRATION BOARD WORKED YESTERDAY

The Board of Registration set yesterday afternoon at the Capitol. It settled about fifteen mistakes in registrations of voters. Today the board will sit throughout the polling hours, from 8 a. m. to 5 p. m. in the main corridor upstairs of the Capitol.

ATKINSON'S LAST WORD

Wants People's Fearless Expression Fairly Recorded.

"Everything is ready for the election," said Secretary Atkinson last night. "It has been my aim to conduct all preparations according to law, and the Rules and Regulations governing elections have been closely studied upon all points. There are many contradictory features in the law, that show its need of amendment."

"This is regarded as the most important day in the year for the Hawaiians, and it is my earnest hope that every one of our citizens will be enabled to cast his ballot according to his own wishes and without interference from outside parties. The inspectors of election seem to me to be better qualified for their duties than has been the case on some former occasions. They have been constantly seeking instructions on every possible point where a question of doubt might arise, and I believe it is their wish, just as much as it is my wish, to give the people every right that belongs to them in the way of a secret ballot and an honest count."

"I shall be at my office all day and will expect representatives of all political parties, as well as individual citizens who are not taking so active a part in the day's proceedings, to report promptly to me any infraction of the law that may come under their notice. These shall have my personal attention as it is my aim and object to have an honest election."

"To-morrow is the day when we can get a fearless expression of the people's opinions, and we want it."

IAUKEA FORGETS HIS PARTY AGAIN

Curtis Iaukea again forgot to which party he belonged at noon yesterday while he was addressing the Bethel street audience, when he shouted:

"My Fellow Home Rulers, etc."

Iaukea did not notice the error and continued his address in perfect innocence of his absentmindedness. Not so very long ago Iaukea addressed the inmates of the Leper Settlement as his "Fellow Republicans."

In his speech yesterday he said the Republicans had nothing to show for benefits to the islands. The County Act was a Republican measure, signed by a Republican Governor and defeated by Republicans. He claimed the Democratic party was the only one which would give the people self-government.

"I was a Republican before, but on account of the party not having fulfilled its promises I left it," he said. "I now stand before you as a Democrat. The Democratic party is the only one that will stand back of the Hawaiians, the country and the Queen. Give the Democratic party a chance to show you what it can do for you," was Curtis' appeal in his most persuasive manner.

Iaukea came down to the feature of his speech when he referred to Notley's arrest, and the impression he left was that the Democrats in the event of Notley being elected as delegate, hoped to secure his conviction, so that he could not be seated in Congress.

"I hate to talk personalities," said Curtis. "God in heaven knows that the Home Rulers have said many wrong things about me and I caused the arrest of Notley, Umauna and Nakookoo. They charge me, while I was Collector-General of Customs, with having done away with a quantity of opium. I deny the charge in toto. They have no proof and will find no proof. At the time when the Home Rulers charge me with having done this deed, I was not in the Custom House but was Commissioner of Public Lands."

"I hope a magistrate will adjudge Notley guilty, so that even if he is elected he will not be able to take his seat in Congress."

BETS IN FAVOR OF REPUBLICANS

Election bets made yesterday were generally in favor of the Republicans. Joe Cohen bet \$50 even that Cecil Brown would be defeated.

He also laid a 2 to 1 bet that two Republican senators would be elected, and also offered a similar bet on the same basis with the addition that he would name the men to win.

The bets are generally about as follows: Even money that Kuhio will be elected; even money that Iaukea will be defeated by Notley; even money that the Legislature is Republican; Dowsett is a strong betting card, his victory appearing to be absolutely certain to those with betting instincts.

DO NOT BE INFLUENCED.

Never hesitate to say "No" to your dealer if he offers you a substitute for Chamberlain's Cough Remedy. It has no equal on the market for the prompt curing of coughs, colds, croup and whooping cough and you make no mistake in buying this medicine. For sale by all Dealers and Druggists. Benson, Benson, Smith & Co., Ltd., Agents for Hawaii.

APPEAL TO WASHINGTON UPON JUDGES QUESTION

Attorneys for A. W. Carter Do Not Accept Territorial Supreme Court Decision—Several Important Cases Decided.

Attorneys for A. W. Carter, guardian, are going to carry the question of jurisdiction of circuit judges at chambers to the Supreme Court of the United States. They do not accept the construction of Hawaiian judiciary law as affected by the Organic Act which the Supreme Court pronounced yesterday in the Parker case, reported at some length below. Sidney M. Ballou, of counsel for the writ of prohibition that is dissolved, had a writ of error prepared before the day was over to carry the case to Washington.

Nobody had ever found anything wrong with the Hawaiian jurisprudence in its giving jurisdiction of probate and equity matters to judges at chambers. Other systems have probate judges apart from the ordinary law courts and some confer equity jurisdiction on particular judges who preside as well in courts of law. One advantage of the Hawaiian system is that it saves separate court machinery and expenses. However, in the course of a bitterly contested probate case, a circuit judge suggested and attorneys eagerly raised the point that the Act of Congress providing a government for the Territory of Hawaii abolished, at least by implication, all the old Hawaiian laws conferring equity and probate jurisdiction on circuit judges at chambers—that is out of regular court terms with juries in attendance—as well as recognizing such jurisdiction.

The Supreme Court of Hawaii finds the point not well taken and, as the construction of a Federal law is at issue, it is competent for the lawyers contending the contrary to appeal to the highest national tribunal. This they do and the Parker case will be hung up until the final word comes from Washington.

STATUS OF JUDGES.

Circuit Judges at chambers are decided by the Supreme Court to have independent jurisdiction in equity and probate matters, such independent jurisdiction being exercised by such judges as courts of record, and not privately or summarily—the phrase "circuit judge at chambers" being in such case merely a method of describing such courts.

Referring to the contention that the Organic Act impliedly repealed Hawaiian laws giving circuit judges at chambers equity and probate jurisdiction, the syllabus speaks as follows:

"In construing a doubtful provision of an act or other provisions, the act as a whole and its reason and spirit may be considered; also the circumstances under which it was adopted, the history which preceded it and the consequences of proposed constructions; weight may be given to long continued, unquestioned and contemporaneous construction; if the provision is borrowed, the construction placed upon it previously may be considered; repeals by implication are not favored; expressio unius est exclusio alterius."

Chief Justice Frear writes the decision, with the concurrence of Justice Hatch and Circuit Judge De Bolt in place of Justice Hartwell. It is in the matter of the application of Alfred W. Carter, guardian of the property of Annie T. K. Parker, a minor, for a writ of prohibition against the Honorable George D. Gear, Second Judge of the Circuit Court of the First Circuit, at chambers, and J. S. Low, next friend of Annie T. K. Parker, a minor, Ballou & Marx; Kinney, McClanahan & Cooper, and Robertson & Wilder for petitioner; J. A. Magoon and J. Lightfoot for respondents. The decision is that the permanent writ is denied and the temporary writ dissolved. In pursuance of this deliverance Messrs. Magoon and Lightfoot at once filed a motion to set a day for hearing the Parker case on its merits before Judge Gear.

HISTORICAL SKETCH.

The following bit of history relative to courts in Hawaii is given in the body of the opinion:

"Much, as to jurisdiction and procedure, is governed by what may be considered Hawaiian common law—that has grown up without the aid of statute or has been built upon statutes by inference and been recognized by bench and bar and has to some extent been assumed in the enactment of statutes. In fact, the judiciary has developed here, especially in its earlier period, much as it did in early English history, gradually and largely without the aid of statute. There was a gradual separation of judicial from executive and legislative functions, a gradual organization of a judicial system, introduction of trial by jury, separation of law and equity, separation of civil and criminal matters at law, and of equity, probate and admiralty matters at chambers, and of the functions of the judge and the jury, and a gradual development in forms of pleading and practice. This began long before the first constitution, that of 1840, the provisions of which were somewhat crude and meager and but little suggestive of the system, especially so far as the superior courts of record—the government courts—were concerned, that then

existed and rapidly developed for some years afterward.

"Prior to the constitution of 1840, there were scarcely any statutory provisions relative to the judiciary. After that until the act of 1847, organizing the judiciary, there was little more than the act of 1842, which related chiefly to juries and began:

"There are two distinct kinds of courts. One kind where the judges or tax officers decide the case by themselves, and the other kind where they cannot act by themselves, but certain other persons must be associated with them. These persons who are associated with them shall constitute the jury."

"The first comprehensive act covering the judicial system with any degree of completeness was that of 1847. That is largely the basis, directly or indirectly, of all subsequent comprehensive acts relative to the jury. It divided jurisdiction between certain named courts and judges at chambers. Then came the constitution of 1852, which has been the basis of all subsequent constitutions. It provided in Article 81: 'The judicial power of the kingdom shall be vested in one Supreme Court and in such inferior courts as the Legislature may from time to time establish.' This was followed the next year by the second comprehensive judiciary act, drafted, we believe, by the same person who drafted the constitution, Chief Justice Lee. The main object of this act was to conform the laws to the change in the Supreme Court.

"The former Supreme Court, consisting of the king, premier and four chiefs, whose functions had practically ceased, was dropped altogether, and what had previously been the Superior Court of law and equity in name, but had already become practically the Supreme Court as well in reality, was made such in name also. This act also preserves the distinction between the courts and the judges at chambers, in matters of jurisdiction, methods of appeal, etc.

"Next came the Civil Code of 1859, embodying, in Sections 815-1282, a codification of the laws relating to the judiciary, namely, the acts of 1847 and 1852, and a number of subsequent acts of minor importance, but preserving the distinction between the courts and the judges at chambers in language for the most part still in force in the statute books.

"The constitution of 1864 followed, copying for the most part the provisions of that of 1852, including the Article 64 of that constitution, which was Article 64 of that constitution. The constitution of 1887 was copied mostly from that of 1864, and contains the same Article 64. Meanwhile a number of more or less important acts were passed more fully defining or altering in detail the jurisdiction and procedure, that already for the most part existed, in regard to particular subjects. These are set forth in the compilations of 1884 and 1897, which were not enacted.

"The Judiciary Act of 1892 made some important changes in the organization of the judiciary and the jurisdiction of the courts, but preserved the same distinction between the courts and the judges at chambers.

"The constitution of 1894 copied the provisions of that of 1864 relating to the judiciary with some changes not material to the questions now under consideration. The provision now particularly in question appears as Article 82.

"In view of the fact," the court comments, "that constitution after constitution and statute after statute has been adopted by constitutional conventions and legislatures and accepted without question by bench and bar and the public throughout the sixty-four years of organized constitutional government in Hawaii, recognizing the constitutionality and propriety of provisions such as those now called in question, coupled with the fact that the 'judges at chambers' in the exercise of jurisdiction in equity and probate matters are and have been regarded as courts, and not only that but courts of record, it would be preposterous to hold that the statutes conferring or defining such jurisdiction of judges at chambers would be void under Hawaiian constitutions or immediately prior to the enactment of the Organic Act."

The court analyzes the provision of the Organic Act under which the jurisdiction of circuit judges at chambers is assailed, and finds that Congress did not intend to abrogate any of the Hawaiian judiciary laws by implication. This is shown by the fact that Congress retained of such laws what it intended to retain and abolished what it intended to abolish—no more and no less in either case.

COURT NOTES.

Judge Robinson appointed Agnes Cameron as executrix of the will of her husband, the late Captain Edward F. Cameron.

Eugenio Arroyo's arraignment for murder is promulgated by Judge Gear for tomorrow.

Judge Gear denied the motion for continuance of the Nasse murder case until next term, although J. J. Dunne, counsel for defendant, stated he must throw up the case if not continued.

The demurrer of Mary Mann to indictment for larceny of \$60 was overruled and she pleaded not guilty.

On a motion by a directed verdict against the alleged four Chinese sisters of Waiulua, the jury was required to sit tomorrow.

RYAN NAILS A CANARD

Good Government Club Denounces Brown Circular.

The Good Government Club was aroused yesterday over the circulation of a printed letter against Cecil Brown which purported to have been signed by P. F. Ryan, Wm. M. Cunningham, Frank Turk and thirty-seven others.

The owners of the names mentioned denied positively having had anything to do with the circular and denounced it as a canard. The three gentlemen swore to an affidavit to this extent.

The circular was sent through the mails in what purported to be "Good Government Club" envelopes. As the club has had no stationery of the kind yet, this was a fake on the face of it. The circular and the affidavit are as follows:

Headquarters Good Government Club
Reading Room Occidental Bar
Corner King and Alakea Streets
Dear Sir:

May we call your attention to the "Good Government Club" ticket as advertised by the posters about the city? We are in the field on behalf of more liberal legislation in the interests especially of the retail liquor dealer who pays his license and is therefore entitled to fair consideration. They are now unjustly restricted to certain localities and hours and have to follow up an undue amount of red tape in securing a license. This is a legitimate calling hampered by the present officials and their party.

We are particularly anxious to see in the legislature a gentleman well known to all—Mr. Cecil Brown. Mr. Brown has shown in the past that he is a public man of liberal views. When in the queen's cabinet just before the overthrow he favored a bill to license opium. In the session of two years ago he advanced the extension of the city water system by the expenditure of over \$200,000 for the Pauoa springs. It was afterwards learned that this price was too high, as the owner swore to a valuation of \$5,000 for tax purposes. However, it shows positively that Mr. Brown is an impartial man and such a man as square minded people wish to see in the legislature. Besides being endorsed by this club, Mr. Brown is endorsed by the Democratic party. Mr. Brown declares that it will be his course to fight both tooth and nail Governor Carter and the Republicans in their plans to carry out the Republican platform. Our candidate is a man of affairs, being at the head of the only meat company here, the only telephone company and a bank.

Mr. Brown has been a legislator twenty-five years and knows all about it. He believes in Honolulu being opened up somewhat, and as he is opposed in this by a lot of out-of-date people, we ask your assistance in returning him to the senate to lead the fight against Governor Carter and his narrow minded backers.

Yours truly,
GOOD GOVERNMENT CLUB
By PADDY RYAN
Occidental Bar
WM. CUNNINGHAM
Late owner of Favorite Saloon
FRANK TURK
Late of Lewis & Turk
AND 37 OTHERS

THE AFFIDAVIT.

Honolulu, Oahu)
Territory of Hawaii) ss.

The undersigned, P. F. Ryan, Frank J. Turk and W. M. Cunningham, severally and not jointly, each for himself and not one for the other, depose and say:

That a certain circular posted November 6th at the Post Office at Honolulu at 7 p. m. and entitled "Headquarters Good Government Club" and purporting to be signed as follows:

"Good Government Club
By Paddy Ryan
Occidental Bar
Wm. Cunningham,
Late owner of Favorite Saloon
Frank Turk
Late of Lewis & Turk
AND 37 others"

is a false and forged circular; that none of the affiants signed such circular, or had any knowledge of it, and that the whole affair is a fake from start to finish.

And further affiants say that said Frank Turk and said Wm. Cunningham are not members of the "Good Government Club."

Affiants further state on information and belief that said circular was issued for the purpose and with the intention of causing the defeat of Cecil Brown.

P. F. RYAN,
FRANK J. TURK,
W. M. CUNNINGHAM.
Subscribed and sworn to before me this 7th day of November, A. D. 1904.
GUSSE H. CLARK,
Notary Public First Judicial Circuit, Territory of Hawaii.

Notice: In behalf of the "Good Government Club" of this city, the undersigned offers a reward of \$50.00 for evidence that will lead to the conviction of the parties who forged the name of the "Good Government Club," and the name of the undersigned to the circular a nod to defeat Cecil Brown, posted at the Post Office in Honolulu at 7 p. m. November 6th, 1904.
P. F. RYAN.

August Ahrens has resigned the position of manager of Oahu Sugar Co.'s plantation, which he has filed from the beginning of the enterprise. He was formerly the manager of Waiulua plantation.

KINNEY IS NOT SO SURE

Claims Hawaiians Are Not Deserting His Party.

The hopes of the Democrats in today's election are expressed by Chairman Kinney, who states that Roosevelt will probably be elected, and that they hope to elect Cecil Brown, as well as to win a victory for Iaukea and the Democratic ticket in general. Kinney's statement issued yesterday is as follows:

"I have admitted publicly that the chances appeared to be in favor of Roosevelt as against Parker, which admission is generally considered poor politics on my part. The admission was deliberate and to impress upon the Hawaiians.

"First—That we were dealing with absolute honesty with them, and.

"Second—That there was little use for them to turn Democrats or to expect recognition from the Democratic party on the mainland if their only motive was to get in on the winning side.

"The Democratic Central Committee have further taken the position that the Democratic party, even if it loses the presidential election, has ample power left to protect the Hawaiian people from any injustice or abridgment of their rights if anything of that kind is attempted. The Democrats have urged the Hawaiians to come into the Democratic party and to stay with it rain or shine, and not to come in until they were ready to do so.

"The Democratic Central Committee now state it to be their conviction that they have made more progress by taking the above position, than they would in unjustifiable contention that Parker was sure of election. We have not said and do not say now that he is sure of defeat. We simply say that if Parker is elected it will not be the first surprise of the kind that has happened in American politics.

"We further state that the arrest of Home Rule leaders for circulating gross libels against the Democrats on the eve of election has resulted in bringing great support to the Democratic party particularly among Hawaiians. The wholesale desertion by Hawaiians of the Democratic party alleged by opponents is absolutely untrue. That the contrary is the truth is sure on the island of Oahu. The other islands have not yet been heard from.

"We predict the defeat of the Home Rule party on the island of Oahu barring perhaps two representatives in the Fifth. Our canvass shows that Harvey and Waller are elected, also that Cecil Brown, despite the concentrated efforts of the administration to beat him, if no one else, is a winner. The count also shows that the Democrats will elect more members from Oahu to the House of Representatives than any other party. Our last reports from Kauai show a Democratic plurality for Delegate, otherwise a split ticket. Molokai we claim will go Democratic for Delegate, Maui uncertain for Delegate and otherwise a split ticket between the three parties. Our information from Hawaii is that Shipman and Frank Woods are elected, and that otherwise the representative ticket will be split up with representation from all parties. We expect to hold our own as to Delegate on the island of Hawaii and the island of Oahu, and upon the information at hand at this hour, and according to conditions as they exist or existed from the last reports from the other islands, we claim we have substantial grounds for making the foregoing prediction."

SENTENCE UPHELD IN WATANABE CASE

By unanimous decision of the Supreme Court, written by Justice Hartwell, exceptions of defendants are overruled in the case of Territory of Hawaii vs. Watanabe Masagi and Funa-koshi Tatsugoro and the case is remanded to the Fourth Circuit Court. M. F. Prosser, Deputy Attorney General, appeared for the prosecution in the appellate court, and Cathcart & Milverton and George A. Davis for the defendants. Following is the statement of the court's opinion:

"The defendants were tried at the January term, 1903, of the Fourth Circuit Court held at Hilo, Island of Hawaii. Little, J., presiding, upon an indictment charging them with the murder of one Matsuhiko Kinno, January 25, 1902. The indictment charged murder in the first degree. The jury rendered a verdict finding the defendants guilty of murder in the second degree. The court sentenced the defendant Funa-koshi Tatsugoro to imprisonment at hard labor for thirty years and the defendant Watanabe Masagi to imprisonment at hard labor for twenty-five years."

FUTURE PLANS OF MANAGER LAKE

It is rumored that upon the expiration of his contract with the Alexander Young Hotel in August of next year H. Wignate Lake may retire from his management and take a hotel on the coast. It is said that had circumstances been permitted, Mr. Lake could have had the management of the St. Francis hotel in San Francisco.